

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
No. 05-451C  
No. 05-452C

(Filed: November 9, 2005)

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LAZAR S. KOVACHEVICH, )  
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 Plaintiff, )  
 v. )  
 )  
 UNITED STATES, )  
 )  
 Defendant. )

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ORDER

Pending before the court is a motion by plaintiff for an extension of time to November 23, 2005 to file an appeal from the decision entered on August 25, 2005, in these consolidated cases. Plaintiff's motion for an extension was submitted on October 18, 2005. Defendant's response to plaintiff's motion was due by November 1, 2005, but no response has been submitted.

The motion for an extension arises under Fed. R. App. P. 4(a)(5). To obtain an extension of time to file a notice of appeal under this rule, plaintiff must submit the motion for an extension "no later than 30 days after the time prescribed by this Rule 4(a) [for filing a notice of appeal] expires," Fed. R. App. P. 4(a)(5)(A)(i), and must show "excusable neglect or good cause" for the extension. Fed. R. App. P. 4(a)(5)(A)(ii). In his motion, plaintiff avers that he was absent from the country for most of the time after the decision of the court was rendered, that the damage from Hurricanes Katrina and Rita has occurred in the intervening time, and that he has not had an adequate opportunity to prepare for an appeal.

Plaintiff's motion for an extension was submitted in timely fashion. The judgment was entered on August 25, 2005, and consequently the last day of the 60-day period for filing a notice of appeal was October 24, 2005. Plaintiff thus filed his motion for extension six days before the deadline. Plaintiff has also made a minimally sufficient showing of good cause for an extension. *See Gibbons v. United States*, 317 F.3d 852, 855 (8th Cir. 2003) (citing *Pioneer Investment Servs. Co. v. Brunswick Assocs. Ltd. Partnership*, 507 U.S. 380 (1980)); *Cygnus Corp. v. United States*, 65 Fed. Cl. 646 (2005).

Accordingly, plaintiff's motion for an extension of time to file a notice of appeal is GRANTED, and the time for filing such a notice is extended to and including November 23, 2005.

It is so ORDERED.

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Charles F. Lettow  
Judge